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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,436	02/19/2004	Kenneth W. Pearson JR.	PE44-001	6387

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WELLS ST. JOHN P.S.  
601 W. FIRST AVENUE, SUITE 1300  
SPOKANE, WA 99201

EXAMINER

LEE, KEVIN L

ART UNIT PAPER NUMBER

3753

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/783,436

Applicant(s)

PEARSON, KENNETH W.

Examiner

KEVIN L LEE

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/19/04 &amp; 7/1/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 11, 14-16, 20-22, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lund (U.S. Patent No. 5,277,219). The patent to Lund discloses a hot water recirculation system comprising a hot water heater (12), a fixture (14, 28, 30, 32), a fluid circuit (16, 18) extending from the water heater to the fixture, a fluid pump (46) for recirculating hot water through the circuit and an electrical circuit sensor (60) configured to detect operation of an electrical circuit (62) proximate to the fixture and associated with a user operating the fixture and further configured to initiate operation of the fluid pump responsive to detected operation of the electrical circuit to initiate hot water recirculation, col. 4, lines 6-11. Lund further states that optional plumbing fixtures in addition to the sink (28) and the washing machine (32) may be provided along with “any common plumbing fixture utilized in residences and businesses,” col. 3, lines 16. Such common plumbing fixtures would inherently include dishwashing machines.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6, 17-19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund in view of Massaro et al (U.S. Patent No. 5,205,318). The hot water recirculation system of Lund includes an electrical circuit sensor comprising a switch (60). The electrical circuit sensor lacks being configured to sense current flow from a light circuit. The patent to Massaro et al teaches the above exception in utilizing an electrical circuit in a hot water recirculation system to manually turn on the hot water pump by a user turning on a light switch, col. 12, lines 29-58. In view of the teaching of Massaro et al, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lund to include configuring the electrical circuit sensor to sense current flow from a light switch to initiate operation of the pump, therein utilizing the available light switch present in most household rooms and thus eliminating the need for an additional switch.

Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund in view of Kaonohi (U.S. Patent No. 5,735,291). The hot water recirculation system of Lund lacks having check valves to allow one-way fluid flow through the fluid

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circuit. The patent to Kaonohi teaches the use of a check valve (38) in a fluid circuit (30) to allow one-way fluid flow through the fluid circuit, col. 3, lines 52-55. In view of the teaching of Kaonohi, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lund to include a check valve in the fluid circuit to ensure one-way fluid flow through the fluid circuit.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund in view of Helt (U.S. Patent No. 4,687,948). The hot water recirculation system of Lund includes a control system (50) "which may be of any common electrical type employing relays or solid state electronics" to provide "a means for switching electrical current outlet 52 to the pump 46 in order to cause the pump 46 to circulate water from the hot water line 16 to the cold water line 18," col. 3, lines 45-50. The patent to Helt teaches the use of a solid-state doughnut-type relay (11) used to open and close an electrical circuit, the circuit being used to control the operation of a heating/cooling system (5) and a hot water heater (7), col. 2, lines 9-26. In view of the teaching of Helt, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lund to include a solid-state doughnut-type relay as a type of relay to switch electrical current outlet to the pump.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lund in view of O'Neill et al (U.S. Patent No. 4,960,080). The hot water recirculation system of Lund lacks having a pair of shutoff valves on either side of the pump to isolate the pump

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for repair or replacement. The patent to O'Neill et al teaches the above exception in providing a pair of shutoff valves (4, 24) on either side of a pump (10) for the purpose of fluidly isolating the pump (10) so that it can be removed and replaced, col. 4, lines 54-65. In view of the teaching of O'Neill et al, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lund to include a pair of shutoff valves on either side of the pump to allow the pump to be removed and replaced from the fluid circuit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN L LEE whose telephone number is (703) 308-1025. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVE SCHERBEL can be reached on (703) 308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEPTEMBER 29, 2004

  
**Kevin Lee**  
**Primary Examiner**